

Thursday, 12 February 1948

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INTERNATIONAL MILITARY TRIBUNAL
FOR THE FAR EAST
Chambers of the Tribunal
War Ministry Building
Tokyo, Japan.

PROCEEDINGS IN CHAMBERS

On

Paper 1548. Application on behalf of the Prosecution for leave to Withdraw Exhibit No. 3834, Volumes I to V, inclusive, of the Record of the Trial United States of America vs. SAWADA, Shigeru, et al.

Paper 1549. Application on behalf of the Prosecution for leave to Withdraw its Document No. 1744, portions of which are now Court Exhibit No. 323, being a Volume entitled "Documents of the Nanking Safety Zone," Edited by Shuhsi Hsu.

BEFORE:

HON. SIR WILLIAM WEBB,
President of the Tribunal and
Member from the Commonwealth of
Australia.

Reported by:

Robert B. Morse
Court Reporter
IMTFE

Appearances:

For the Prosecution Section:

Mr. Solis Horwitz, and
Mr. David F. Sutton.

For the Defense Section:

None.

For the Secretariat:

Mr. Edward H. Dell, Legal Adviser, and
Mr. Paul Lynch, Clerk of the Court.

The proceeding was begun at 1605.

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THE PRESIDENT: This is paper 1548, application on behalf of the prosecution for leave to withdraw exhibit No. 3834, volumes I to V, inclusive, of the record of the trial of the United States of America against SAWADA, Shigeru, et alias.

What have you to say, Mr. Lynch? What have we in its place? It is too early to let exhibits go. The Judges might want to see them.

MR. LYNCH: I notified the defense about the applications being filed and they said they had no objection.

THE PRESIDENT: Well, I will make an order on the terms that the document should be returned at an hour's notice to this Tribunal.

MR. SUTTON: This application was filed under Rule 6-B 2 and excerpts were used at the trial. It is a huge record of the proceedings which they now desire to use in several cases pending in Yokohama and it is the only one which SCAP had.

THE PRESIDENT: And I also direct that every care be taken in the custody of the document during its absence from this Court.

The next is paper 1549, an application on

behalf of the prosecution for leave to withdraw its document No. 1744, portions of which are now court exhibit No. 323, being a volume entitled "Documents of the Nanking Safety Zone," edited by Shuhsi Hsu..

MR. LYNCH: Same notice.

THE PRESIDENT: No part of this particular document is an exhibit admitted into evidence?

MR. SUTTON: Excerpts from it were admitted into evidence after complying with Rule 6-B 1.

That is to be sent back to China. I got it from Dr. Boyton's library in Shanghai.

THE PRESIDENT: Is it necessary to send it back so soon?

MR. SUTTON: He is very anxious to have it. It is the only one they had in Shanghai. They asked me if I could please to have it returned to him. I have had two letters from him in the last two months and I haven't made the application until the evidence was completed.

THE PRESIDENT: He is in Shanghai?

MR. SUTTON: Yes.

THE PRESIDENT: We could send a plane over in a day if necessary.

MR. SUTTON: Certainly we could get it back.

THE PRESIDENT: Instead of making it on an

hour's notice, make it forty-eight hours notice.

MR. LYNCH: I have one other application by Mr. Eckeney but I was never able to notify him about the hearing. He wasn't here this afternoon. So we will have to wait. His is the same thing. It is 1547.

THE PRESIDENT: Perhaps I could make it in his absence. There is no objection to this, I suppose, Mr. Sutton.

MR. SUTTON: Not that I know of.

THE PRESIDENT: You haven't seen this paper?

MR. SUTTON: Yes, sir, I have seen it. I should like for the order to give the privilege of objections. I should like the Russian representatives to indicate whether or not they might have any objections to it.

THE PRESIDENT: We will defer that matter.

(Whereupon, at 1610, the proceeding was concluded.)

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